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Of Counsel for Plaintiff

**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON**

WE THE PEOPLE USA, INC.,

Plaintiff,

v.

RICHARD H. NORLAND,

Defendant.

No.

COMPLAINT

(Trademark Infringement, Trademark
Dilution, Unfair Competition and De-
ceptive Trade Practices)

DEMAND FOR JURY TRIAL

Plaintiff We The People USA, Inc., for its complaint, alleges as follows:

NATURE OF THE CASE

1. This is an action for trademark infringement and for related causes of action arising from defendant's use of plaintiff's registered service mark WE THE PEOPLE® to sell para-legal and legal-document-preparation services in direct competition with services of plaintiff.

COMPLAINT - 1

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JURISDICTION AND VENUE

2. This Court has jurisdiction over the Lanham Act claims pursuant to 28 U.S.C. §§ 1331 (federal question) and 1338(a) (trademark case). The Court has jurisdiction over the related state claims under 28 U.S.C. §§ 1338(b) (substantially related unfair competition claim) and 1367 (supplemental jurisdiction). The Court also has jurisdiction over all the claims pursuant to 28 U.S.C. § 1332, because there is complete diversity of citizenship between the parties, and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

3. Venue is proper pursuant to 28 U.S.C. §§ 1391(b) and (c) because defendant resides in this district, a substantial part of the events or omissions occurred in this district and defendant is subject to personal jurisdiction in this district.

THE PARTIES

4. Plaintiff is a Delaware corporation having its principal place of business in Berwyn, Pennsylvania.

5. Defendant is a natural person who is domiciled in Springfield, Oregon.

PLAINTIFF AND ITS RIGHTS

6. Plaintiff is a leading provider of paralegal and legal-document-preparation services for consumers in the United States.

7. Since at least March 1, 1987, plaintiff and its predecessors have provided a variety of paralegal and legal-document-preparation services under the distinctive term WE THE PEOPLE.

8. Plaintiff's use of the term WE THE PEOPLE for paralegal and legal-document-preparation services has created secondary meaning in the term, insofar as customers have come to associate the term with plaintiff and its franchisees.

9. Plaintiff has acquired common-law trademark rights in WE THE PEOPLE for paralegal and legal-document-preparation services.

10. In recognition of plaintiff's rights in the WE THE PEOPLE trademark, the United States Patent and Trademark Office has issued to plaintiff United States Trademark Registration Number 2,075,797 on the principal register of trademark for the trademark WE THE PEOPLE®.

11. Plaintiff's registration for the mark WE THE PEOPLE® has become incontestable under Section 15 of the Lanham Act, 15 U.S.C. § 1065.

12. Beginning at a date long prior to defendant's activities complained of herein, plaintiff's WE THE PEOPLE® trademark became famous and acquired a secondary meaning with the public as indicating a single source of quality paralegal and legal-document-preparation services.

DEFENDANT'S UNLAWFUL CONDUCT

13. Without the knowledge or consent of plaintiff, and beginning on or after January 1, 2004 — long after plaintiff had established valuable goodwill in connection with its WE THE PEOPLE® trademark — defendant commenced to use, in interstate commerce and commerce substantially affecting interstate commerce, the symbol WE THE PEOPLE in connection with the sale, offering for sale, distribution, advertising and promotion of paralegal and

legal-document-preparation services. The services offered by defendant under the WE THE PEOPLE trademark are directly competing with, or at least substantially related to, those offered by plaintiff under the WE THE PEOPLE[®] trademark.

14. Defendant knew or should have known of plaintiff's rights in the WE THE PEOPLE[®] trademark at the time it adopted the trademark, and that its use of the trademark would constitute infringement.

15. In selecting and using the symbol WE THE PEOPLE[®] as a trademark in connection with the sale, offering for sale, distribution, advertising and promotion of paralegal and legal-document-preparation services, defendant is benefiting from the valuable goodwill which plaintiff has established in its trademark, and defendant has otherwise been unjustly enriched.

16. Defendant caused an application to be filed with the Secretary of State of the State of Oregon to register WE THE PEOPLE OF OREGON, INC. as defendant's corporation and business name, and such name was registered on or about December 30, 2003.

17. Defendant caused an application to be filed with GoDaddy.com to register the Internet domain name <wethepeopleoforegon.com>, and such name was registered on or about December 30, 2003.

18. Defendant's registration of plaintiff's mark renders it impossible for plaintiff to obtain similar registrations of marks, which are variants or derivatives of its registered WE THE PEOPLE[®] mark, in the State of Oregon and in the ICANN domain-name system.

19. Plaintiff has protested defendant's activities complained of herein, but defendant is continuing such activity despite the protest and due notice of plaintiff's rights.

20. Plaintiff has been seriously damaged by defendant's activities, and unless such activities are preliminarily and permanently enjoined, plaintiff and its goodwill and reputation will suffer irreparable injury that cannot be adequately calculated or compensated in money damages.

FIRST CLAIM FOR RELIEF

Trademark Infringement, 15 U.S.C. § 1114(1)

21. Plaintiff specifically realleges and incorporates paragraphs 1 through 20 as if fully set forth herein.

22. Defendant is using the WE THE PEOPLE[®] trademark in a manner that is likely to confuse, deceive and/or cause mistake among consumers and therefore infringes plaintiff's trademark rights and, more specifically, infringes the WE THE PEOPLE[®] trademark registration in violation of 15 U.S.C. § 1114(1).

SECOND CLAIM FOR RELIEF

Federal Unfair Competition, 15 U.S.C. § 1125(a)

23. Plaintiff specifically realleges and incorporates paragraphs 1 through 22 as if fully set forth herein.

24. Defendant's use of a confusingly similar imitation of plaintiff's WE THE PEOPLE[®] mark has caused and is likely to cause confusion, deception and mistake by creating the false and misleading impression that defendant's services are produced and distributed by

plaintiff, or affiliated, connected or associated with plaintiff, or have the sponsorship, approval or endorsement of plaintiff.

25. Defendant has made false representations, false descriptions and false designations of origin of its services in violation of 15 U.S.C § 1125(a), and defendant's activities have caused and, unless enjoined by this Court, will continue to cause a likelihood of confusion and deception of members of the trade and public and, additionally, injury to plaintiff's goodwill and reputation symbolized by the WE THE PEOPLE[®] mark to the great and irreparable injury of plaintiff.

THIRD CLAIM FOR RELIEF

Trademark Dilution, 15 U.S.C. §§ 1125(c) and Or. Rev. Stat. § 647.107

26. Plaintiff specifically realleges and incorporates paragraphs 1 through 25 as if fully set forth herein.

27. Defendant's acts dilute plaintiff's famous WE THE PEOPLE[®] trademark, in violation of 15 U.S.C. §§ 1125(c) and Or. Rev. Stat. § 647.107.

FOURTH CLAIM FOR RELIEF

Trademark Infringement Under Oregon Law

28. Plaintiff specifically realleges and incorporates paragraphs 1 through 26 as if fully set forth herein.

29. The acts and conduct of defendant as alleged above constitute trademark infringement under the common law of the State of Oregon.

FIFTH CLAIM FOR RELIEF

Violation of the Oregon Unlawful Trade Practices Act,

Or. Rev. Stat. §§ 646.605 *et seq.*

30. Plaintiff specifically realleges and incorporates paragraphs 1 through 29 as if fully set forth herein.

31. Defendant has been and is passing off its services as those of plaintiff, causing a likelihood of confusion or misunderstanding as to source, sponsorship or approval of defendant's services, and causing a likelihood of confusion as to defendant's affiliation, connection or association with plaintiff, or otherwise damaging the public. Defendant's activities, as alleged above, constitute unfair and deceptive acts or practices in the conduct of a business, trade or commerce in violation of Oregon's Unlawful Trade Practices Act, Or. Rev. Stat. §§ 646.605 *et seq.*

32. Defendant's conduct has affected and is contrary to the public interest, has tended to mislead a substantial portion of the public as to the source, origin or approval of its WE THE PEOPLE services, causing plaintiff injury in its business and property in the State of Oregon and elsewhere.

JURY DEMAND

Pursuant to Fed. R. Civ. P. 38(b), plaintiff hereby demands a trial by jury of all issues so triable that are raised herein or which hereinafter may be raised in this action.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays that this Court enter judgment in its favor, and against defendant, as follows:

(A) For a preliminary and permanent injunction restraining defendant, his agents, servants, employees, attorneys and all persons in concert or participation with defendant, or under his control, from:

(i) using WE THE PEOPLE or any word or combination of words which is similar to WE THE PEOPLE, as all or part of any trademark, service mark, or trade name, or other product or service or commercial identification, in connection with the sale, offering for sale, distribution or promotion of any paralegal and legal-document-preparation services;

(ii) representing by words or conduct that any service offered for sale, sold or distributed by defendant is authorized, sponsored or endorsed by or otherwise connected with plaintiff;

(iii) using in connection with the sale, offering for sale, distribution, advertising or promotion of any paralegal and legal-document-preparation services any label, print, wrapper, receptacle, bottle, container, box, display, packaging, advertisement, commercial or printed matter, or any material in any medium which displays or includes any service marks or trade names confusingly similar to any of plaintiff's service marks or trade names;

(iv) registering, attempting to register or maintaining any trademark, service mark, trade name or domain name registration including the term WE THE PEOPLE as one or two words; and

(v) competing unfairly with plaintiff.

(B) For an injunction directing defendant:

(i) to deliver up to plaintiff, under oath and for destruction, all signs, containers, advertisements, promotional material, printing devises, business forms and other things, in the possession, or under the control of defendant, which display any of the matter described in (a)(i) of this demand; and

(ii) to file with this Court and serve on plaintiff within fifteen days after the service on defendant of such injunction, a report in writing and under oath setting forth in detail the manner and form in which defendant has complied with the injunction.

(C) For recovery of defendant's profits and plaintiff's damages pursuant to 15 U.S.C. § 1117, or as otherwise permitted by law;

(D) For an award against defendant for three times the amount of the actual damages sustained by plaintiff as a result of defendant's wrongful conduct pursuant to 15 U.S.C. § 1117, or as otherwise permitted by law;

(E) For an award against defendant of the costs of this action, including plaintiff's attorneys' fees pursuant to 15 U.S.C. § 1117, or as otherwise permitted by law; and

(F) For such other, different and further relief as to this Court may seem just, equitable and proper.

Dated this 23rd day of August, 2005.

s/
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